

MINUTES

ALCOHOL AND TOBACCO COMMISSION

NOVEMBER 5, 2008

CALL TO ORDER/NOTING OF QUORUM

Chairman Heath called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Johnson Commissioner Guthrie and Commissioner Sturtz. Also in attendance was Superintendent Huskey.

Marc Carmichael, Debbie Scott, Brad Klopfenstein, Trevor Vance, Mark Webb, and Nicole Upano were present as observers.

DISPOSITION OF MINUTES

Commissioner Sturtz moved to approve the minutes that were submitted for the October 21, 2008 meeting. Motion seconded by Commissioner Guthrie and it was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

PAD FORMS – Vice Chairman Johnson moved to approve the parties agreed disposition forms that were submitted for the November 5, 2008 meeting. Motion seconded by Commissioner Guthrie and it was unanimously approved.

CONSIDERATION OF APPLICATIONS

I incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by said staff with the authority of the Commission, and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

I incorporate by reference these lists of permit applications for a new permit or application for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners and hereby move for approval of same and inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

I incorporate by reference these lists of permit applications for catering and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

I incorporate by reference these lists of permits to be placed in escrow for not more than one year, which have been reviewed and recommended by a Commissioner as appropriate for first or second year escrow and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

Three hundred seventy-seven (377) renewals approved, sixty-five (65) new and/or transfer permits approved, seven (7) permits approved for catering, eight (8) permits approved for first year escrow, five (5) permits approved for second year escrow, five (5) permits approved for third year escrow, two (2) permits approved for fourth year escrow and three (3) permits approved for fifth year escrow.

RENEWAL LETTERS AND WAIVER OF FEES

Vice Chairman Johnson moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Motion seconded by Commissioner Sturtz and it was unanimously approved.

APPLICATIONS FOR DISCUSSION

DL21-2263 PAVEY GROCERY, INC. – Chairman Heath noted this is a new type 116 application with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie stated that when the Excise officer was conducting the final inspection, after the local board meeting, it appears the location is within a residential district.

Commissioner Guthrie moved to remand this application to the local board for further investigation regarding the location. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

DL49-25307 TWO VANS, INC., D/B/A PAIRINGS GOURMET WINE & GROCERY – Chairman Heath noted this is a new type 116 application with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the new permit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

DL41-24004 MAC'S CONVENIENCE STORES, LLP, D/B/A CIRCLE K #0004 – Chairman Heath noted this is a new type 115 application with the local board voting three (3) to one (1) to disapprove.

Commissioner Guthrie stated three of the local board members stated the orange notification sign was not properly displayed, and; therefore voted to deny. However, the Excise member of the board stated the orange was displayed in a proper manner. There were no remonstrators present at the hearing.

Commissioner Guthrie moved to overturn the local board's recommendation and approve the permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR43-25109 AND RR43-25110 PELICAN BAY, INC., D/B/A PIE-EYED PETEY'S – Chairman Heath noted this is a new type 103 application and a new type 210-1 application with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the new permit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

DL43-25096 LM ACQUISITIONS, INC., D/B/A LANCE'S – Chairman Heath noted this is a new type 115 application with the local board voting three (3) to one (1) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RC56-14714 AMERICAN LEGION POST 238 – Chairman Heath noted this is a type 211-3 renewal application with the local board voting three (3) to zero (0) to disapprove.

Commissioner Guthrie noted the Excise officer stated this permittee refuses to comply with the gambling statute.

Commissioner Guthrie moved to uphold the local board's recommendation and deny the renewal. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

INACTIVE FILES

PERMITS MADE INACTIVE – Vice Chairman Johnson moved to make five (5) permits inactive. All five (5) permits are not subject to auction. Motion seconded by Commissioner Sturtz and it was unanimously approved.

REVOCATION HEARING – Vice Chairman Johnson moved to declare the following permits inactive due to the fact that they did not appear for their revocation hearing:

RC64-91109; DL03-22322; RR22-20832; RR49-22865; RR49-22641

Motion seconded by Commissioner Guthrie and it was unanimously approved.

OLD BUSINESS

No Old Business

NEW BUSINESS

READOPTION OF RULES – Commissioner Guthrie moved to readopt the following rules that are set to expire. Motion seconded by Commissioner Sturtz and it was unanimously approved.

905 IAC 1-8; 905 IAC 1-16.1-1; 905 IAC 1-23-1; 905 IAC 1-29-1; 905 IAC 1-29-2; 905 IAC 1-29-3; 905 IAC 1-29-4; 905 IAC 1-29-6; 905 IAC 1-29-7; 905 IAC 1-52

POLICY DETERMINATIONS

No Policy Determinations

ANNOUNCEMENTS

No Announcements

ADJOURNMENT

Commissioner Sturtz moved to adjourn the meeting. Motion seconded by Commissioner Guthrie and it was unanimously approved.

Approved this _____ day of _____, 2008.

DAVE HEATH, CHAIRMAN

DAVID JOHNSON, VICE CHAIR

DALE STURTZ, COMMISSIONER

FRANK GUTHRIE, COMMISSIONER